

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

MAGNOLIA ISLAND PLANTATION, CIVIL ACTION NO. 5:18-CV-1526
ET AL.

VERSUS JUDGE S. MAURICE HICKS, JR.

LUCKY FAMILY, L.L.C., ET AL. MAGISTRATE JUDGE HAYES

**MOTION TO CONTINUE DEADLINES
AND TRIAL WITHOUT DATE
(WITH CONSENT)**

NOW INTO COURT, through undersigned counsel, comes W.A. LUCKY, III (“Mr. Lucky”), who respectfully represents:

1. Pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure, defendant Mr. Lucky hereby requests that the Court enter an order continuing all pending deadlines and the trial in this action to allow time for the United States Fifth Circuit Court of Appeal (“Fifth Circuit”) to render a decision and judgment on the appeal taken by Bossier Parish Sheriff Julian C. Whittington in his official capacity (“Sheriff”) from the Court’s *Order*, Doc. No. 159, denying in part the Sheriff’s motion for summary judgment asserting qualified immunity.

2. The trial is currently scheduled for April 26, 2021. *Scheduling Order*, Rec. Doc. 154. A variety of pre-trial deadlines are currently scheduled for the near future, including the following:

February 9, 2021 – Exchange of Proposed Pretrial Order and Exhibits

February 23, 2021 – Conference to Prepare Pretrial Order

March 9, 2021 – Motions in Limine

March 19, 2021 – Joint Pretrial Order

March 23, 2021, at 1:30 p.m. – Pretrial Conference

April 2, 2021 – Taking Trial Depositions

April 19, 2021 – Submission of Trial Depositions

April 19, 2021 – Jury Trial Submissions.

3. On November 20, 2020, the Court rendered its *Memorandum Ruling*, Rec. Doc. 158, on the Sheriff's motion for summary judgment. The Court's *Order*, Rec. Doc. 159, denying the Sheriff's motion for summary judgment was signed on that same date.

4. On December 18, 2020, the Sheriff filed his *Notice of Appeal*, Rec. Doc. 162, from the Court's *Order*.

5. On January 21, 2021, the Clerk of Court certified the record on appeal to the Fifth Circuit.

6. The Sheriff's brief in the appeal is presently due on March 26, 2021. That date is after most of the aforementioned deadlines will have passed, and is a month before the trial date scheduled herein. The due date for the appellee's brief has not been set.

7. The parties agree that this action should be tried after the Fifth Circuit rules on the Sheriff's appeal. The outcome of the Sheriff's will substantially affect what claims for relief are to be tried, the contents of the pretrial order, the evidence to be adduced, the submissions to be made to the jury, and the decisions to be made by the jury.

8. As a result, movant, with consent of all other parties to this action, files this motion requesting that the Court continue all of the deadlines set forth above without date, beginning with the February 9, 2021, deadline for exchange of the proposed pretrial order and exhibits and including the unexpired deadlines in the applicable scheduling order. Movant additionally requests that the Court continue the pending trial date to be reset by a scheduling conference after the Fifth Circuit rules on the Sheriff's appeal.

9. Counsel for Mr. Lucky has complied with LR 7.4.1 and obtained consent for the filing and granting of this motion from all parties having an interest to oppose same. Undersigned counsel's certificate that there is not opposition to this request is attached hereto as required by LR 7.4.1 and LR 7.9.

10. Counsel for Mr. Lucky submits an order herewith and requests same be granted.

WHEREFORE, W.A. LUCKY, III PRAYS THAT an order be entered in the form submitted herewith continuing (a) all of the unexpired deadlines set herein, beginning with the February 9, 2021, deadline for exchange of the proposed pretrial order and exhibits and including the unexpired deadlines in the applicable scheduling order, and (b) the pending trial date, with the aforementioned deadlines and trial date to be reset by a scheduling conference after the Fifth Circuit rules on the Sheriff's appeal.

AYRES, SHELTON, WILLIAMS,
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ATTORNEYS FOR W. A. LUCKY, III

CERTIFICATE UNDER LR 7.4.1 AND 7.6 THAT MOTION IS NOT OPPOSED

I HEREBY CERTIFY that: (a) on February 9, 2021, I requested that each of Ronald William Lollar, Magnolia Island Plantation, L.L.C., Barbara Marie Carey Lollar, Lucky Family, L.L.C., and Bossier Parish Sheriff Julian C. Whittington, in his official capacity consent to the granting of the relief sought in the foregoing motion; (b) the aforementioned parties are all of the parties to this action who could have an interest to oppose the foregoing motion; and (c) the attorney of record for each of the aforementioned parties responded that such parties did not oppose the foregoing motion being granted.

Shreveport, Louisiana, this 9th day of February, 2021.

/s/ Curtis R. Shelton
OF COUNSEL